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O'MELVENY & MYERS LLP

BEIJING  
BRUSSELS  
CENTURY CITY  
HONG KONG  
LONDON  
LOS ANGELES  
NEWPORT BEACH

Times Square Tower  
7 Times Square  
New York, New York 10036-6524  
TELEPHONE (212) 326-2000  
FACSIMILE (212) 326-2061  
www.omm.com

SAN FRANCISCO  
SEOUL  
SHANGHAI  
SILICON VALLEY  
SINGAPORE  
TOKYO  
WASHINGTON, D.C.

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WRITER'S DIRECT DIAL  
(212) 326-2070

**BY ECF**

WRITER'S E-MAIL ADDRESS  
mpensabene@omm.com

The Honorable Colleen McMahon  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007

**Re: *Flo & Eddie, Inc. v. Sirius XM Radio, Inc., Civil Action No. 13-CV-5784 (CM)***

Dear Judge McMahon:

On behalf of our client, defendant Sirius XM Radio, Inc. ("Sirius XM"), we write to request a hearing on Sirius XM's concurrently filed Motion for Reconsideration, Or, In the Alternative, to Certify Order for Interlocutory Appeal ("Motion"). The Motion seeks reconsideration, or certification, of the Court's November 14, 2014, Order Denying Defendant's Motion for Summary Judgment.

Oral argument would aid the Court in its consideration of the new authority presented in Sirius XM's Motion. It would also be appropriate given the complex and far-reaching impact the Court's ruling will have on numerous stakeholders in the music business. As the Court recognized, whether a public performance right exists in pre-1972 sound recordings is a "thorn[y] question ... that has profound economic consequences for the recording industry and both the analog and digital broadcast industries." Order at 16. To permit a full discussion of these issues, Sirius XM respectfully requests a hearing on its Motion.

Sincerely,

*/s/ Marc J. Pensabene*

Marc J. Pensabene  
of O'MELVENY & MYERS LLP

cc: Henry Gradstein (plaintiff's counsel)  
Maryann R. Marzano (plaintiff's counsel)  
Harvey W. Geller (plaintiff's counsel)